



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

GREGORY D. STUMBO
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITOL AVENUE
FRANKFORT, KY 40601-3449
(502) 696-5300
FAX: (502) 564-2894

ATTORNEY GENERAL'S
LAW ENFORCEMENT ADVISORY REGARDING
FUNERAL PROTESTS

The Office of the Attorney General has received numerous requests for advice on the effect of the temporary injunction issued by the Federal Court on Tuesday, September 26, 2006, barring enforcement of portions of the new law controlling funeral protestors.

The court order affected only part of the law, specifically Sections 5 (1)(b) and (c) of HB 333 and SB 93.

Under Section 5(1)(a) of the law, a person is guilty of interference with a funeral when he or she:

Blocks, impedes, inhibits, or in any other manner obstructs or interferes with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, or memorial service, or burial is being conducted.

The ruling also leaves intact another part of the new law which amended the disorderly conduct statute. That part of the law may still be enforced. It reads:

- (1) A person is guilty of disorderly conduct in the first degree when he or she:
 - (a) In a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof:
 - 1. Engages in fighting or in violent, tumultuous, or threatening behavior;
 - 2. Makes unreasonable noise; or
 - 3. Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose; and

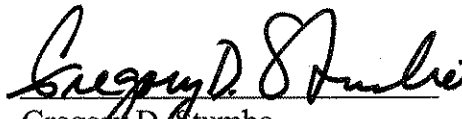


- (b) Acts in a way described in paragraph (a) of this subsection within three hundred (300) feet of a:
1. Cemetery during a funeral or burial;
 2. Funeral home during the viewing of a deceased person;
 3. Funeral procession; or
 4. Funeral or memorial service; or
 5. Building in which a funeral or memorial service is being conducted, and
- (c) Knows that he or she is within three hundred (300) feet of an occasion described in paragraph (b) of this subsection.

The key then is whether the protestor blocks access to a funeral or “engages in fighting or in violent, tumultuous, or threatening behavior; makes unreasonable noise; or creates a hazardous or physically offensive condition by any act that serves no legitimate purpose;” and knows that they are within 300 feet of the places designated in the statute.

In short, peaceful demonstrations and protests must be allowed to continue without arrest no matter how offensive and objectionable the speech. Demonstrations which violate the sections of the law set out above continue to be illegal.

If you have additional questions, please call Brent Irvin at (502) 696-5662.


Gregory D. Stumbo
Attorney General

September 28, 2006